

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ARIZONA HALL,)	
)	
Petitioner,)	
)	
v.)	No. 4:13CV556 SNLJ
)	(TIA)
LENARD EDWARDS,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court on Petitioner's Motion for Summary Judgment and Motion for Leave to Amend Petition (Doc. Nos. 11 & 14). The case was referred to the undersigned pursuant to 28 U.S.C. § 636(b).

On March 22, 2013, Petitioner filed a Petition for a Writ of Habeas Corpus, raising four grounds for habeas relief. He filed an Amended Petition on April 1, 2013, again raising four claims. On April 18, 2013, Petitioner filed a Second Amended Petition, reiterating the claims in his previous petitions. Petitioner then filed a Motion for Summary Judgment and a Motion for Leave to Amend Petitioner, raising the same claims and arguments as those contained in his previous pleadings.

The undersigned finds that a motion for summary judgment is not the proper vehicle to determine the merits of the petition. Bauer v. Gonzales, No. 06-1763 (JRT/FLN), 2006 WL 2735460, at *3 (D. Minn. Sept. 25, 2006). Federal Rules of Civil Procedure may be applied only where the rules are not inconsistent with statutory provision under the rules of habeas corpus. See Rule 12 of Rules Governing § 2254 Cases. Under 28 U.S.C. § 2254(a), "a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court . . ." At this point, the Respondent has not had adequate time to respond

to the Petitions. The undersigned will deny Petitioner's summary judgment motion but will consider the arguments contained in the motion when Court entertains the application for a writ of habeas corpus as provided by 28 U.S.C. § 2254. In addition, the Court will deny Petitioner's most recent motion to file an amended petition. Review of that motion indicates that it is merely redundant of the 3 previous petitions. However, the Court will also consider the arguments once the application for a writ of habeas corpus is ripe for review.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's Motion for Summary Judgment (Doc. No. 11) is **DENIED**.

IT IS FURTHER ORDERED that Petitioner's Motion for Leave to Amend Petition (Doc. No. 14) is **DENIED**.

/s/ Terry I. Adelman
UNITED STATES MAGISTRATE JUDGE

Dated this 6th day of May, 2013.